

# An Overview of the Opioid Settlements

Joint presentation by the New Jersey Division of Law and New Jersey  
Department of Human Services for the New Jersey Association of Counties

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# Purpose

- ▶ This presentation will provide an overview of the Distributor and J&J opioid settlement agreements, as well as the State Subdivision Agreement, pursuant to which approximately \$641 million in opioid settlement funds will be paid to the State and local governments through 2038.
- ▶ It will also address “Approved Uses” for opioid settlement funds and recommendations on the treatment, prevention, and other strategies to combat the opioid epidemic.





# Distributors & J&J Settlement Agreements

## OVERVIEW

- Nationwide settlements reached to resolve all opioid litigation brought by states and local political subdivisions against distributors (i) McKesson, Cardinal Health and Amerisource Bergen (collectively, “Distributors”), and (ii) manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, “J&J”).
- Culmination of almost three years of intense negotiations.
- Not a class action “opt out” settlement; required a “critical mass” of participation.

## IMPLEMENTATION

“CRITICAL MASS” = ACHIEVE SUFFICIENT  
SIGN-ON FROM STATES AND SUBDIVISIONS  
TO EFFECTUATE SETTLEMENTS.

# Acting AG Bruck Announces 100% Participation by New Jersey Counties and Municipalities in Historic \$26 Billion Opioid Settlement

**For Immediate Release: February 2, 2022**

**Office of The Attorney General**

– Andrew J. Bruck, *Acting Attorney General*

**Division of Law**

– Michelle Miller, Director

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**TRENTON** – Acting Attorney General Andrew J. Bruck announced today that all 21 counties in New Jersey, and all 241 municipalities that have populations over 10,000 or that filed related lawsuits, have joined the State in signing onto the nationwide settlement agreements with Johnson & Johnson and the country’s three largest pharmaceutical distributors – McKesson, Cardinal Health, and AmerisourceBergen – to resolve claims involving their roles in fomenting the country’s opioid crisis.

As a result, New Jersey and its counties and municipalities are on track to receive the maximum amount available to the State under the settlements: over \$641 million. Under the settlements, the amount that each state will receive depends on the level of participation among its county and municipal governments that have populations over 10,000 or that have filed lawsuits against the companies. New Jersey has now achieved 100 percent participation among those counties and municipalities.



# DISTRIBUTORS

## Payment Amount & Schedule

- **Global Settlement Amount of \$21 billion over 18 years:**
  - Global Settlement Abatement Amount totaling \$19,045,348,616;
  - Global Settlement Attorney Fee Amount totaling \$1,671,923,077; and
  - Additional Restitution Account totaling \$282,692,307.70.
- **New Jersey Settlement Allocations:**
  - NJ Net Abatement Amount = 2.7551354545%.
  - NJ Abatement Amount = \$511,188,209.44
  - NJ Additional Restitution Amount = \$12.37 million.

# J&J

## Payment Amount & Schedule

- Global Settlement Amount of \$5 billion over no more than 10 payments:
  - Global Settlement Abatement Amount totaling \$4,534,615,385.00;
  - Global Settlement Attorney Fee Amount totaling \$398,076,923; and
  - Additional Restitution Account totaling \$67,307,692.
- New Jersey Settlement Allocations:
  - NJ Allocation of Net Abatement Amount = 2.7551354545%.
  - NJ Abatement Amount = \$117,495,930.47
  - NJ Additional Restitution Amount = \$0



## Payments to New Jersey from Both Settlement Agreements

TYPE	DISTRIBUTORS	J&J	TOTAL	DISTRIBUTION
Abatement	\$511,188,209.44	\$117,495,930.47	\$628,684,139.91	Split 50/50 between State and Subdivisions
Restitution	\$12,365,351.52			Just for State
<b>TOTAL</b>	<b>\$523,553,560.96</b>	<b>\$117,495,930.47</b>	<b>\$641,049,491.43</b>	

# Intrastate Allocation

- Intrastate allocation or how to allocate the settlement funds between the state and its subdivisions can be set by one or more of the following:
  - Default Under the Agreement
  - State-Subdivision Agreement
  - Allocation Statute or Statutory Trust



// Titled: “MEMORDANUM OF AGREEMENT BETWEEN THE STATE OF NEW JERSEY AND LOCAL GOVERNMENTS ON OPIOID LITIGATION RECOVERIES”

Purpose: “[T]o establish binding terms for the distribution and spending of funds from any National Opioid Litigation Resolution that is a settlement agreement and - at the sole discretion of the State - any National Opioid Litigation Resolution that is a bankruptcy plan.” //

State Subdivision Agreement - Overview



# Allocation of Opioid Settlement Proceeds

- All Opioid Funds shall be divided with 50% directly to the State ("State Share") and 50% directly to the Participating Local Governments ("Local Government Share")



# Allocation of Opioid Settlement Proceeds Among the Subdivisions

Allocations are subject to change pursuant to a State-Subdivision FINAL AGREEMENT Agreement, Allocation Statute, Statutory Trust, or voluntary redistribution. 3.10.22

## Subdivisions with Consolidated Allocations - Qualified Subdivisions Only

State ID	Qualifying Subdivision	Consolidated State Allocation
NJ1	Aberdeen Township, New Jersey	0.0797396894%
NJ2	Asbury Park City, New Jersey	0.3916349671%
NJ3	Atlantic City, New Jersey	1.2847690915%
NJ4	Atlantic County, New Jersey	2.8915764045%
NJ5	Barnegat Township, New Jersey	0.1626638814%
NJ6	Bayonne City, New Jersey	0.8502340058%
NJ7	Beachwood Borough, New Jersey	0.0492329228%
NJ8	Belleville Township, New Jersey	0.0872090223%
NJ9	Bellmawr Borough, New Jersey	0.0640989992%
NJ10	Bergen County, New Jersey	4.9446361090%
NJ11	Bergenfield Borough, New Jersey	0.0618076073%
NJ12	Berkeley Heights Township, New Jersey	0.0272673062%
NJ13	Berkeley Township, New Jersey	0.2619731788%
NJ14	Bernards Township, New Jersey	0.0910577073%
NJ15	Bloomfield Township, New Jersey	0.1173874959%
NJ16	Bordentown Township, New Jersey	0.0545891482%
NJ17	Bound Brook Borough, New Jersey	0.0527105023%
NJ18	Branchburg Township, New Jersey	0.0561024563%
NJ19	Brick Township, New Jersey	0.5908193174%
NJ20	Bridgeton City, New Jersey	0.2079614154%
NJ21	Bridgewater Township, New Jersey	0.1828057629%
NJ22	Burlington County, New Jersey	4.4940916659%
NJ23	Burlington Township, New Jersey	0.1157900630%
NJ24	Camden City, New Jersey	1.6603828843%
NJ25	Camden County, New Jersey	6.8741218172%
NJ26	Cape May County, New Jersey	1.2842777540%
NJ27	Carteret Borough, New Jersey	0.1794847100%
NJ28	Cedar Grove Township, New Jersey	0.0187911021%
NJ29	Chatham Township, New Jersey	0.0498541051%
NJ30	Cherry Hill Township, New Jersey	0.3440044947%
NJ31	Cinnaminson Township, New Jersey	0.0701648926%
NJ32	Clark Township, New Jersey	0.0429898704%
NJ33	Cliffside Park Borough, New Jersey	0.1142449150%
NJ34	Clifton City, New Jersey	0.3535258812%
NJ35	Clinton Town, New Jersey	0.0294193343%
NJ36	Clinton Township, New Jersey	0.0799778554%
NJ37	Collingswood Borough, New Jersey	0.1128930571%
NJ38	Cranford Township, New Jersey	0.0684441330%
NJ39	Cumberland County, New Jersey	0.9862828059%
NJ40	Delran Township, New Jersey	0.0837486054%
NJ41	Denville Township, New Jersey	0.0795654377%
NJ42	Deptford Township, New Jersey	0.2200095463%
NJ43	Dover Town, New Jersey	0.1186530251%
NJ44	Dumont Borough, New Jersey	0.0403826120%
NJ45	East Brunswick Township, New Jersey	0.0972927881%
NJ46	East Greenwich Township, New Jersey	0.0212104162%
NJ47	East Hanover Township, New Jersey	0.0890156417%
NJ48	East Orange City, New Jersey	1.2844844553%
NJ49	East Windsor Township, New Jersey	0.0422463462%

# Voluntary Redistribution

- If that Participating Local Government is a municipality, that municipality's funds shall be reallocated to the Participating County in which it is located.
- If the county in which such municipality is not a Participating County, then that municipality's funds shall be reallocated proportionally among the Participating Counties.





# Opioid Remediation & Approved Purposes

- “Approved Purposes”
  - Those uses identified in the Opioid Abatement Strategies attached as Exhibit A (which is Exhibit B to the national settlement with the Settling Distributors) or such equivalent in other National Opioid Litigation Resolutions.
  - All Opioid Funds, except those allocated to payment of administrative expenses as set forth in Section C(3) if permitted by the relevant National Opioid Litigation Resolution, and counsel and litigation fees and expenses to the extent permitted in Section D and the relevant National Opioid Litigation Resolutions, shall be utilized in a manner consistent with the “Approved Purposes” definition.

- OPIOID FUNDS SHALL BE USED TO SUPPLEMENT AND SHALL NOT SUPPLANT FEDERAL, STATE, COUNTY OR MUNICIPAL FUNDS, AS THE CASE MAY BE, THAT OTHERWISE WOULD HAVE BEEN USED FOR APPROVED PURPOSES.
- NO AMOUNT OF SUCH MONIES SHALL BE USED TO REIMBURSE THE STATE OF ANY OF ITS COUNTIES OR MUNICIPALITIES FOR PAST EXPENDITURES, EXCEPT AS MAY OTHERWISE BE REQUIRED TO REFUND TO THE FEDERAL GOVERNMENT A PORTION OF THE MONIES.
- NEITHER THIS PROVISION, NOR ANY OTHER IN THIS AGREEMENT, SHALL BE INTERPRETED TO PREVENT OR PROHIBIT EITHER THE STATE OR ANY LOCAL GOVERNMENT FROM MODIFYING, CHANGING OR TERMINATING ANY OPIOID ABATEMENT RELATED PROGRAMS WHEN, IN THEIR RESPECTIVE JUDGMENTS, CHANGING CIRCUMSTANCES AND CONDITIONS MAKE SUCH CHANGES OR MODIFICATIONS APPROPRIATE.

SUPPLEMENT,  
NOT  
SUPPLANT

# Administrative Expenses

- No more than five percent (5%) of the State Share and no more than five percent (5%) of the Local Government Share may be spent on administrative expenses.





# Supplemental Contingency Fee Fund



Consistent with the State Subdivision Agreement, 3.25% is taken off the top of the New Jersey Local Government Share from the first seven payments for the Supplemental Contingency Fee Fund to cover litigating subdivision counsel's fees.

# County Advisory Council

- County's Health Department
  - Lead agency responsible for distributing Local Government Share;
  - Shall consult with an advisory council (the "County Advisory Council"), whose purpose is to provide input, advice and recommendations on the disbursement of such monies across Approved Purposes.
- Constitution of County Advisory Council





# Reporting & Accountability

- At least annually, by September 1<sup>st</sup> of each year, each Region shall provide to the State a report detailing for the preceding state fiscal year, in the manner and form prescribed by the State:
  1. The amount of the Local Government Share received by each Participating Local Government within the Region;
  2. The allocation of any awards approved (listing the recipient, the amount awarded, the program to be funded and disbursement terms);
  3. The amounts disbursed on Approved Purposes; and
  4. The amounts sent on administrative expenses.



There have been two Distributor payments to date:

1. July 15, 2022 = \$24,663,923.93

2. October 31, 2022 = \$27,896,349.33

**PAYMENTS TO DATE**

# DISTRIBUTOR PAYMENT 1 : July 15, 2022 = \$24,663,923.93

		Payment 1
Total Payment to NJ (State and Locals):		\$ 24,663,923.93
Additional Restitution Amount (State):		\$ 2,826,366.06
Total Abatement Amount		\$ 21,837,557.86
Total to NJ Local Governments - 50% of Total Abatement Amount		\$ 10,918,778.93
Supplemental Contingency Fee Fund Payment = 3.25% of NJ Local Governments Payment		\$ 874,477.95
<b>Total Payment to NJ Locals Net of Supplemental Contingency Fee Fund</b>		<b>\$ 10,044,300.98</b>
<b>Total to NJ only:</b>		<b>\$ 13,745,145.00</b>

# DISTRIBUTOR PAYMENT 2 : OCTOBER 31, 2022 = \$27,896,349.33

		Restitution/ Abatement	Additional Restitution	Total Payment 2
1.	<b>Total Allocation</b>	\$22,950,208.72	\$4,946,140.61	\$27,896,349.33
2.	<b>Allocation Method</b>	<b>New Jersey State Subdivision Agreement</b>		
3.	50% to State Share	\$11,475,104.36	\$0.00	\$11,475,104.36
4.	50% to Local Government Share (Less Row 5)	\$10,504,911.74	\$0.00	\$10,504,911.74
5.	Supplemental Contingency Fee Fund	\$970,192.62	\$0.00	\$970,192.62
6.	Additional Restitution	\$0.00	\$4,946,140.61	\$4,946,140.61



# Opioid Remediation Uses

Core Abatement Strategies, Exhibit E, Schedule A



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Naloxone or Other FDA-Approved Drug to Reverse Opioid Overdoses

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Medication-Assisted Treatment (“MAT”) Distribution and Other Opioid-Related Treatment

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Pregnant & Postpartum Women

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Expanding Treatment for Neonatal Abstinence Syndrome (“NAS”)

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Expansion of Warm Hand-Off Programs and Recovery Services

# Opioid Remediation Uses

Core Abatement Strategies, Exhibit E, Schedule A (continued)

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Treatment for Incarcerated Population

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Prevention Programs

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Expanding Syringe Service Programs

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Evidence-Based Data Collection & Research Analyzing the Effectiveness of the Abatement Strategies within the State

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# Opioid Remediation Uses Approved Uses, Exhibit E, Schedule B Part One: Treatment

Treat	Treat Opioid Use Disorder (OUD)
Support	Support People in Treatment and Recovery
Connect	Connect People who Need Help to the Help They Need (Connections to Care)
Address	Address the Needs of Criminal Justice-Involved Persons
Address	Address the Needs of Pregnant or Parenting Women and their Families, Including Babies with Neonatal Abstinence Syndrome



Opioid Remediation  
Uses  
Approved Uses,  
Exhibit E, Schedule B  
Part Two: Prevention

Prevent

Prevent Over-Prescribing and Ensure Appropriate Prescribing and Dispensing of Opioids

Prevent

Prevent Misuse of Opioids

Prevent

Prevent Overdose Deaths and Other Harms (Harm Reduction)

Opioid Remediation  
Uses  
Approved Uses,  
Exhibit E, Schedule B  
Part Three: Other  
Strategies

First Responders

Leadership, Planning  
and Coordination

Training

Research

# Questions & Follow-Up

- ▶ If you have questions for the Office of the New Jersey Attorney General, please send an e-mail to [OpioidSettlements@njoag.gov](mailto:OpioidSettlements@njoag.gov).
- ▶ If you have questions for the Division of Mental Health and Addiction Services, please send an e-mail to [DMHAS@dhs.nj.gov](mailto:DMHAS@dhs.nj.gov).